

WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
WASHINGTON, D.C.

EUROPE
BRUSSELS
BUDAPEST
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

AFRICA
JOHANNESBURG

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: YOUR DIRECT DIAL NUMBER

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
JAKARTA
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

GENERAL COUNSEL
OF COPYRIGHT

APR 20 1998

RECEIVED

April 20, 1998

VIA FACSIMILE DELIVERY

Hon. Lewis Hall Griffith
Hon. Jeffrey S. Gulin
Hon. Edward Dreyfus
c/o Ms. Gina Giuffreda,
CARP Specialist
Office of the Register of Copyrights
Room LM-403
James Madison Memorial Building
101 Independence Avenue, S.E.
Washington, DC 20540

Re: Noncommercial Educational Broadcasting License (Docket No. 96-6 CARP NCBRA)

Dear Judges Griffith, Gulin and Dreyfus:

The American Society of Composers, Authors and Publishers ("ASCAP") hereby responds to the letter, dated April 9, 1998, from counsel for Public Broadcasters summarizing the latter's position with regard to their motion to strike certain ASCAP Exhibits proffered by ASCAP in its Direct Case. Those ASCAP Exhibits were sponsored by Carol Grajeda, a legal assistant employed by White & Case, counsel to ASCAP.

Annexed to Public Broadcasters' letter as "Schedule A" is a "SCHEDULE OF GRAJEDA EXHIBITS." That Schedule sets forth the current state of Public Broadcasters' objections thereto as follows:

(a) Public Broadcasters have withdrawn their objections to ASCAP Exhibits 9, 10, 11, 12, 13, 14, 15, 16, 300, 301, 302, 304, 306, 307, 308, 309, 310, 311, 313, 316, 317, 318, 319, 320, 321, 325, 326, 327, 330, 331, 332, 333, 337, 338, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 700 and 701.

(b) Public Broadcasters acknowledge that the following ASCAP Exhibits have already been introduced into evidence and, therefore, objections to these are, presumably, no longer at issue.

ASCAP Exhibit: 312, 500.3 through 500.8; 500.19 through 500.32, 500.51 through 500.94, 500.115 through 500.132, 500.161 through 500.162, 500.171 through 500.190, 500.213 through 500.220, 500.291 through 500.322, 500.349 through 500.392, 500.411 through 500.414, 500.441 through 500.480 [admitted as ASCAP Exhibit 6x]; 505.32 through 505.33, 505.69 [admitted as ASCAP Exhibit 1x and 13x]; 515.6 [admitted as ASCAP Exhibit 16x]; 516.14 [admitted as ASCAP Exhibit 2x]; 519.9 through 519.10 [admitted as ASCAP Exhibit 11x]; 519.14 [admitted as ASCAP Exhibit 23x]; 521.13 through 521.14 [admitted as ASCAP Exhibit 19x]; 615.9 through 615.11, 615.37 through 615.42; 615.58 through 615.71, 615.79 through 615.84; 615.100 through 615.139, 615.159 through 615.177; 615.218 through 615.258 [admitted as ASCAP Exhibit 24x];

712.15 through 712.16 [admitted as ASCAP Exhibit 12x]; 713.29 [admitted as ASCAP Exhibit 5x], 713.55 [admitted as ASCAP Exhibit 7x].

(c) Public Broadcasters move to strike solely "on hearsay grounds" the following:

ASCAP Exhibits 323, 324, 328, 335, 336, 505.1 through 505.31, 505.34 through 505.68, 505.70 through 505.79, 506 through 507, 511 at pp. 3 through 4 and 6 through 9, 513, 514.4 through 514.5, 514.12 through 514.13, 514.20 through 514.22, 515.5, 515.14, 515.16, 516.12 through 516.13, 519.50, 519.52, 520, 523, 615.1 through 615.8, 615.12 through 615.36, 615.43 through 615.57, 615.72 through 615.78, 615.85 through 615.99, 615.140 through 615.158, 615.178 through 615.217, 615.259 through 615.263, 702, 704, 710.17, 711, 714, 715, 716, 717, 718, 719, 720.16 and 720.18 through 720.19.

(d) Public Broadcasters move to strike without qualification the following.

ASCAP Exhibits 303, 305, 314, 315, 322, 329, 334, 339, 340, 341, 342, 400, 414, 500.1 through 500.2, 500.9 through 500.18, 500.33 through 500.50, 500.95 through 500.114, 500.133 through 500.160, 500.163 through 500.170, 500.191 through 500.212, 500.221 through 500.290, 500.323 through 500.348, 500.393 through 500.410, 500.415 through 500.440, 500.481 through 500.524, 501, 502, 503, 504, 508, 509, 510, 511 at pages 1 through 2 and 5, 512, 514.1 through .3, 514.6 through 514.11, 514.14 through 514.19, 514.23 through 514.39, 515.1 through 515.4, 515.7 through 515.13, 515.15, 515.17 through 515.19, 516.1 through 516.11, 516.15 through 516.28, 517, 518, 519.1 through 519.8, 519.11 through 519.13, 519.15 through 519.49, 519.51, 519.53 through 519.54, 521.1 through 521.12, 521.15 through 521.21, 522, 524, 525, 600, 703, 705, 706, 707, 708, 709, 710.1 through 710.16, 710.18 through 710.19, 712.1 through 712.14,

712.17 through 712.65, 713.1 through 713.28, 713.30 through 713.54, 713.56 through 713.59, 720.1 through 720.15, 720.17, 720.20 through 720.27.

This letter will address the objections by Public Broadcasters to those ASCAP Exhibits which are gathered together above in paragraphs (c) (those objections which are made solely on ground of hearsay) and (d) (those objections which are made generally).

II.

There is apparently no dispute as to the authenticity of any of the ASCAP Exhibits which are the subject of objections. The White & Case legal assistant, Ms. Grajeda, testified to the process by which she and others under her supervision collected the ASCAP Exhibits (Transcript, March 12, 1998, at 768 - 827). Public Broadcasters do not assert that these ASCAP Exhibits are, in any way, something other than what ASCAP purports them to be. Therefore, their authenticity is established.¹

The objections asserted by Public Broadcasters to the ASCAP Exhibits set forth in I(c) above are based solely on hearsay. Hearsay, however, is not a valid objection to evidence in either an arbitration such as a CARP or any other similar non-judicial proceeding. Under 17 U.S.C. § 802(c) and (d), and 37 C.F.R. § 251.42, CARP proceedings must be conducted subject to the terms of the Administrative Procedures Act, codified at Title 5, Chapter 5, Subchapter II of

¹ See Federal Rules of Evidence, Rule 901:

"The requirement of authenticity or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what the proponent claims."

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

Judges Griffith, Gulin and Dreyfus
Page 5

the United States Code (the "APA"), where CARP procedures have not been otherwise proscribed by the Librarian of Congress. Under Section 556(d) of the APA, "[a]ny oral or documentary evidence may be received." 5 U.S.C. § 556(d), see Veg-Mix, Inc. v. U.S. Dep't of Agriculture, 832 F.2d 601, 606 (D.C. Cir. 1987) (holding that "[l]axer standards of admissibility . . . apply to administrative tribunals").² Evidence is to be excluded "only if it is 'irrelevant, immaterial, or unduly repetitious.'" Hoska v. U.S. Dep't of the Army, 667 F.2d 131, 138 n.12 (D.C. Cir. 1982) (quoting § 556(d) (emphasis added)); see also Bennett v. N.T.S.B., 66 F.3d 1130, 1137 (10th Cir. 1995) ("agencies are not bound by the strict rules of evidence governing jury trials"). Likewise, "[a]rbitrators are not bound by the rules of evidence." Generics Ltd. v. Pharmaceutical Basics, Inc., 125 F.3d 1123, 1130 (7th Cir. 1997) (citing Bernhardt v. Polygraphic Co., 350 U.S. 198, 203-04 n.4 (1956)); Hoteles Condado Beach, La Concha & Convention Center v. Union de Tronquistas Local 901, 763 F.2d 34, 38 (1st Cir. 1985) ("An arbitrator enjoys wide latitude in conducting an arbitration hearing. Arbitration proceedings are not constrained by formal rules of procedure or evidence; the arbitrator's role is to resolve disputes, based on his consideration of all relevant evidence, once the parties to the dispute have had a full opportunity to present their cases").

² Rule 251.48(a) of the CARP Rules provides that "evidence that is not unduly repetitious or cumulative and is relevant and material shall be admissible." 37 C.F.R. § 251.48(a).

"[P]rovided it is relevant and material, hearsay is admissible in administrative proceedings." Hoska, supra at 138 (emphasis added). As the Court of Appeals for the District of Columbia has stated:

Generally, . . . if hearsay evidence meets the standards of [Title 5] by being relevant, material, and unrepetitious, see U.S.C. § 556(d) (1982); agencies are entitled to weigh it according to its "truthfulness, reasonableness, and credibility."

Veg-Mix, Inc. v. U.S. Dep't of Agriculture, supra at 606 (citation omitted); see also Richardson v. Perales, 402 U.S. 389, 410 (1971) (under APA, "hearsay [is] admissible up to the point of relevance"); Bennett v. Nat'l Traffic Safety Bd., 66 F.3d 46, 49 (D.C. Cir. 1995) (hearsay documents "need only bear satisfactory indicia of reliability"); Gray v. U.S. Dep't of Agriculture, 39 F.3d 670 (6th Cir. 1994).

Public Broadcasters have had more than sufficient time to decide for themselves whether they have other objections on the grounds of "reliability" or "relevance" to these ASCAP Exhibits. Having confined their objections to "hearsay," Public Broadcasters have implicitly conceded both their reliability and relevance. That being true, there is no reason to deny these ASCAP Exhibits a place in the record before this Panel.³

³ Indeed, it has been the practice of some parties to these proceedings, including Public Broadcasters, to submit evidence similar to that submitted by ASCAP and objected to here by Public Broadcasters as hearsay. E.g., Direct Case of Public Television, 1996 Satellite Carrier Royalty Rate Adjustment Proceeding, Docket No. 96-3 CARP SRA (exs. 16, 17, 18)(newspaper articles).

The ASCAP Exhibits grouped together in (d) above are objected to by Public Broadcasters in all respects. Therefore, it is presumably necessary for ASCAP in the first instance to state why the Exhibits are relevant to this proceeding. To examine each of these ASCAP Exhibits in this letter would be inappropriately time consuming and burdensome to the arbitrators and parties. However, an offer of what is intended to be proved by these Exhibits is both appropriate and establishes their manifest relevance to this Panel.

The ASCAP Exhibits objected to by Public Broadcasters are offered to demonstrate, among other things, the following general points which ASCAP believes are important to the Panel's understanding of Public Broadcasters as they currently exist and of ASCAP's case:

- (1) Public Broadcasters are a group of a thousand individual broadcasters that either hold non-commercial FCC broadcast licenses or supply programming to be broadcast by such licensees. (ASCAP Exhibits 300 through 372);
- (2) These broadcasters disseminate a wide range of programming in their individual markets. That programming runs the gamut on television from Masterpiece Theater to Lawrence Welk reruns and on radio from classical music and news to rap and Car Talk. (ASCAP Exhibits 319 through 322, 325, 335 through 336, 503 through 507, 616, 620);
- (3) This programming is either centered on music or contains music. (ASCAP Exhibits 503 through 507, 616);
- (4) With respect to both the broadcasters and the program providers, their respective financial reports show that these enterprises raise billions of dollars every year by broadcasting and selling their programming, including music. (ASCAP Exhibits 301 through 302, 318, 324, 334, 339 through 341, 400 through 413, 600 through 614);
- (5) Some of these broadcasters earn substantial sums of money in their own right, sometimes over \$100 million annually and are fully capable of bearing the license fees ASCAP seeks to charge. (ASCAP Exhibits 400 through 413, 600 through 614);

- (6) Public Broadcasters' ultimate mix of revenues arises from among other activities, the solicitation of corporate underwriting, the sale of memberships, government support and the sale of merchandise such as home videos, records, books, and other public broadcasting related goods. Much of this involves exploitation of music. (ASCAP Exhibits 301 through 302, 318, 324, 334, 339 through 341, 400 through 413, 600 through 614);
- (7) Public broadcasting is sufficiently mature today so that it is:
- (a) capable of supporting and being regularly described in at least one weekly trade paper devoted entirely to it (ASCAP Exhibits 505 through 525);
 - (b) regularly given repeated, in-depth press coverage in other U.S. press (ASCAP Exhibits 704 through 719);
 - (c) supporting and responsible for the funding and development of detailed marketing studies on such subjects as audience demographics, commercialism, pledge drives, underwriting, and program scheduling (ASCAP Exhibits 303 through 308, 525);
 - (d) organized into national "associations" of public broadcasters which are devoted to lobbying and projecting the financial interests of public broadcasting (ASCAP Exhibits 314 through 315);
 - (e) regularly tracking its market share ratings by commercial ratings services, thus demonstrating Public Broadcasters' own perception of being competitive with their commercial counterparts (ASCAP Exhibits 329, 702 through 703, 711); and
 - (f) maintaining hundreds of commercial websites on the Internet for access by potential viewers, listeners and supporters within the individual broadcasters' markets (ASCAP Exhibits 319, 322, 325, 500 through 504, 615 through 617).

None of the foregoing appears to be debatable - indeed, Public Broadcasters do not seek to refute or otherwise materially qualify any of the above either in their Direct or Rebuttal Cases. They have instead requested that the Panel strike ASCAP's Exhibits which evidence the above, and thereby forestall the Panel's use of material, non-controverted evidence in evaluating the reasonableness of the fees to be set here.

The suggestion has been made that Ms. Grajeda was an inappropriate "sponsoring witness" with respect to the materials grouped in I(d) above and, notwithstanding the relevance of those ASCAP Exhibits, they should be excluded on that ground alone. This argument, based on 37 C.F.R. § 251.43(e), is obviously one that has disturbed this Panel.

Section 251.43(e) provides:

(e) No evidence, including exhibits, may be submitted in the written direct case without a sponsoring witness, except where the CARP panel has taken official notice, or in the case of incorporation by reference of past records, or for good cause shown (emphasis added)

No definition of the duties of a "sponsoring witness" appears in the CARP Rules. Turning to the dictionary definition of the word, "sponsor" (i.e., "a person who vouches or is responsible for a person or thing" [Random House Unabridged Dictionary, 2d Ed. at 1843]), it is hard to see how the requirement of "sponsorship" is any different from the authenticity usually testified to under Federal Rule of Evidence 901, *supra* at 4. If so, Ms. Grajeda has adequately fulfilled that requirement when she testified from where and the means by which those ASCAP Exhibits were gathered.

In a proceeding such as a CARP, adversary parties are denied not only the rights of general discovery (a denial consistent with arbitration in general) but also (unlike arbitration generally or other mandatory dispute resolution procedures) the right of subpoena. Is a party to a CARP proceeding, who is already denied those rights, also to be denied the ability to use materials such as those here objected to, which materials can only be verified by the adverse party? Here, it is Public Broadcasters whose activities are, for the most part, the subject of description or analysis in the ASCAP Exhibits and who themselves are the most knowledgeable

about these exhibits. Is that evidence to be excluded merely because Public Broadcasters withhold witnesses who could testify to the veracity of the material?

Certainly, as to a large proportion of the ASCAP Exhibits, ASCAP could not produce any witness to testify as to their veracity. For example, the station website materials (ASCAP Exhibits 500 through 504, 615 through 622) were published by the very broadcasters who seek a license in this proceeding.⁴ Without the ability to subpoena the attendance of such broadcasters or their representatives before the Panel (and absent their consent to testify against their own interests), ASCAP is incapable of obtaining direct testimony as to all of the daily programming schedules of public television and radio stations, their reported revenues, or their characterizations of their general operations, even though that testimony is indisputably relevant in this proceeding.

Unless the CARP Rules are to be interpreted in a way entirely inconsistent with their purpose, Ms. Grajeda's "sponsorship" should be adequate for the purpose of introducing the ASCAP Exhibits.⁵

⁴ A clear example is presented by the following. Without access to an station officer or the Corporation for Public Broadcasting, ("CPB"), how could ASCAP prove that CPB has only recently cut the federal funding of a radio station which broadcast reading programming for the blind because its ratings were too low in its market? (ASCAP Exhibit 28X). That evidence is relevant to the Panel's evaluation of Mr. Jablow's testimony that National Public Radio encourages a "broad mix" of programming that "would not exist on commercial radio" and that is "independent" of concerns as to station ratings. (E.g., Tr. at 1961-1963).

⁵ To rule to the contrary is inconsistent with the dynamic by which the CARP Rules seek to avoid establishing less stringent guidelines for the submission of evidence. See Order and Final Recommendation, 62 Fed. Reg. 55757-58 (October 28, 1997). That panel observed that heightened standards of admission into evidence before a CARP increase costs "without necessarily producing a corresponding increase in the quality of evidentiary proceedings",

(continued...)

WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

Judges Griffith, Gulin and Dreyfus

Page 11

Among the ASCAP Exhibits to which Public Broadcasters object are a number of studies about their practices and efforts to attract underwriting and subscribers by manipulating their programming and the music content thereof. ASCAP Exhibits 303 and 305 are elaborate studies of past successes of these manipulations and suggestions as to how to improve the same. Notwithstanding that these studies were wholly financed by CPB and enlisted the cooperation of the broadcasters which were studied and which are part of this proceeding, Public Broadcasters seek to foreclose the Panel from this obviously relevant evidence. It is particularly ironic that Public Broadcasters seek to foreclose these elaborate studies from the Panel although those same studies are available to the public for the asking from CPB and are listed as available in CPB's own materials and website. Indeed, this was the means by which ASCAP's representative, Ms. Grajeda, obtained them.

These studies are also parallel to materials which have been introduced into evidence dealing with radio, as ASCAP Exhibit 312, the previously objected to "Public Radio Guide to Business and Corporate Support Success." The latter, as is self-disclosed, is an underwriting guide or manual commissioned by CPB for distribution to and use by public radio broadcasters.

Such material, by the process of inference and otherwise, is important evidence in establishing the fact of Public Broadcasters' exploitation of ASCAP's music in a way similar to that of commercial broadcasting.

(...continued)

cited in Order, dated November 17, 1997, In re Adjustment of Rates for the Satellite Carrier Compulsory License, Docket No. 96-3 CARP SRA.

newyork 247071 [3@n9911.DOC]

There is a substantial amount of evidence in the record that supports the inference that some, if not all, of such public radio broadcasters are using ASCAP Exhibit 312 in soliciting underwriting from what would otherwise be considered sponsors of commercial stations, by making appeals similar to those which are made in the commercial sector. Attached hereto for illustrative purposes is a schedule which compares the public radio broadcasters' website materials with the manual and concludes that there is a substantial overlap between the two. For example, based on the materials from the websites which constitute ASCAP 24-X, 11 public radio broadcasters either cribbed or substantially echoed the manual's advice that public radio support will increase an underwriter's public image. Ten utilized the manual's advice that underwriters should be informed that, as a general matter, underwriting spots positively influence listeners to purchase the underwriters' products or services. Eleven listed the names of other existing underwriters as advised by the manual, and 13 touted the enviable marketing demographics of the public radio broadcasters' audience as a selling point for underwriting spots. Thus the inference is inescapable that public radio broadcasters are using the manual as a guide in competing with their rivals in commercial broadcasting. Even more dramatic is that the bulk of ASCAP Exhibit 312 purports to narrate the histories of individual public radio broadcasters in soliciting sums for "advertising" in admitted competition with their commercial counterparts.

ASCAP, having no power of subpoena or right of discovery, was dependent on the happenstance of Mr. Jablow testifying to achieve the admission of ASCAP Exhibit 24-X. Otherwise, the foregoing comparisons, so revealing of the increasingly commercial use of their broadcast time by the public radio broadcasters, could not be made. Are the Panel and ASCAP to be denied similar information as is set forth in ASCAP Exhibits 303, 305, 500 through 504, with

respect to public television broadcasters merely because of the happenstance that no witness called by Public Broadcasters can "sponsor" such materials on cross examination by ASCAP?

IV.

The ASCAP Exhibits which are objected to on grounds of hearsay (I(c) above) should not be stricken. The motion to strike the ASCAP Exhibits grouped in I(d) above should also be denied; if Public Broadcasters question the veracity or the weight to be given to these manifestly relevant Exhibits, or believe inferences to be made therefrom are other than those made by ASCAP, Public Broadcasters should have made that challenge directly by producing evidence to the contrary.

Respectfully submitted,



Philip H. Schaeffer, Esq.
J. Christopher Shore, Esq.
Samuel Mosenkis, Esq.
WHITE & CASE
1155 Avenue of the Americas
New York, New York 10036-2787
212-819-8200

Joan McGivern, Esq.
ASCAP
One Lincoln Plaza, Sixth Floor
New York, New York, 10023
212-621-6204

Beverly A. Willett, Esq.
ASCAP Building
One Lincoln Plaza, Sixth Floor
New York, New York 10023
(212) 621-6289

Attorneys for ASCAP

WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

Judges Griffith, Gulin and Dreyfus

Page 14

cc: To the Persons on the
Attached Service List

nsWjndk 247077 [50m501LDOC]

SERVICE LIST**Docket No. 96-6 CARP NCBRA**

I. Fred Koenigsberg
 Philip H. Schaeffer
 J. Christopher Shore
 Samuel Mosenkis
 White & Case
 1155 Avenue of the Americas
 New York, N.Y. 10036-2787
 PH: 212-819-8806
 FAX: 212-354-8113
 Counsel for ASCAP

Beverly A. Willett
 ASCAP Building
 Sixth Floor
 One Lincoln Plaza
 New York, N.Y. 10023
 PH: 212-621-6289
 FAX: 212-787-1381
 Counsel for ASCAP

Joan M. McGivern
 ASCAP
 One Lincoln Plaza
 New York, N.Y. 10023
 PH: 212-621-6204
 FAX: 212-787-1381

Gregory Perenbach
 Karen Rindner
 Public Broadcasting Service
 1320 Braddock Place
 Alexandria, VA. 22314-1698
 PH: 703-739-5000
 FAX: 703-739-5358

Maryin L. Berenson
 Joseph J. DiMona
 BMI
 320 West 57th Street
 New York, N.Y. 10019
 PH: 212-830-2533
 FAX: 212-397-0789

Norman C. Kleinberg
 Michael E. Salzman
 Hughes Hubbard & Reed LLP
 One Battery Park Plaza
 New York, N.Y. 10004
 PH: 212-837-6000
 FAX: 212-422-4726
 Counsel for BMI

Neal A. Jackson
 Denise Leary
 Gregory A. Lewis
 National Public Radio
 635 Massachusetts Ave., N.W.
 Washington, D.C. 20001
 PH: 202-414-2000
 FAX: 202-414-3021

R. Bruce Rich
 Jonathan T. Weiss
 Mark J. Stein
 Tracey L. Batt
 Weil, Gotshal & Manges
 767 Fifth Avenue
 New York, N.Y. 10153-0119
 PH: 212-310-8000
 FAX: 212-310-8007
 Counsel for PBS and NPR

Comparison of ASCAP Exhibit 312, "The Public Radio Guide to Business & Corporate Support Success" with ASCAP Exhibit 24X, Assorted Radio Underwriting Web Pages From Exhibit 615

Description of ASCAP Exhibit 312 ("The Guide")

The Guide is comprised of numerous pieces or chapters authored by various personnel from various public radio stations and entities (e.g. Public Radio International or "PRI") which are set out into six sections headed as follows: (1) Introduction; (2) Products & Packaging; (3) Presenting & Prospecting; (4) Selling & Servicing; (5) Marketing Planning; and (6) Appendix (dealing with FCC rules on underwriting).

The first substantive section, "Products & Packaging" includes articles concerning subjects such as how a station should go about choosing an underwriting package to sell to corporations, how to price rates, and how to forge a relationship with a particular show's producer.

The second substantive section, "Presenting & Prospecting" presents material on how to research the audience, putting together an underwriting kit, examples of underwriting programs, and how to put together a sales team and seek out underwriter prospects. Much of the web page information can be found within this section; particularly when the Guide gives examples of underwriting kits and programs. Accordingly in correlating the pages to the guide, most references will be from this section.

The third section, "Selling & Servicing" covers just that - how to go about selling the product; forging relationships with customers, how to cold-call, meet and present.

Finally, "Marketing Planning" recommends methods for planning and goals.

The Guide more resembles a textbook on salesmanship and marketing. It advises stations on how to best find underwriters and pitch to them. However, within the chapters are examples of pitches and underwriting kits which parallel the information found on the station websites. For example, pages 615.237-240 (attached hereto as Exhibit A), the web pages for Vermont Public Radio, are strikingly similar to pages IV-26-32 of the Guide, which is an excerpt from the Vermont Public Radio Underwriting Kit (attached along with pgs. III 23-34 of the Guide as Exhibit B). This similarity points to a conclusion that the web pages are taken from the stations' actual underwriting kits.

The Guide purports to be an aid to stations in raising underwriting money by enhancing the stations' marketing and salesmanship. In fact, as one chapter of the Guide makes clear (III-65), "the real reason a company would support [a] station would be to ultimately sell more goods or services at a profit" (relevant portions attached as Exhibit C). To aid stations in raising underwriting revenue, the Guide instruct stations on what to include in underwriting kits. The web pages are portions of basic underwriting kits, which are discussed, with examples given, within the Guide.

ASCAP Exhibit 24X - Underwriting Web Pages

The web pages follow a fairly consistent format, very similar to the marketing kit examples found in III 23-34 and IV 26-33 of the Guide. They include the following information¹:

I. Pitch Intended to Influence Companies to Underwrite

GUIDE - II-31; III-23-34, 39, 44, 48, 111; IV-11, 26

A. That Public Radio ("PR") reaches a vast, difficult to reach audience

Web - 615, 10, 38, 70, 106, 219, 250

B. Many PR listeners hold a very positive image of companies that support PR

Web - .10, .59, .106, .112, .121, .130, .219, .237, .244, .248, .250

C. Many PR listeners say that a company's support of PR influences them positively on their decision to buy the company's product

Web - .10, .59, .107, .112, .121, .130, .219, .237, .244, .250

D. Underwriting high quality shows indicates the company's good citizenship and credibility

Web - .80, .106, .112, .237, .244, .248, .250

¹ Bold pages refer to pages within the Guide that parallel the information found within the web pages, as indicated.

II. Highlighting the Marketing Benefits

GUIDE - III-1-6, 15-16, 23-34, 43-44, 48, 66, 111; IV-8, 27

A. That PR ads do not compete in the cluttered environment as commercial ads do

Web - .10, .70, .102, .172, .228

B. Touting the quality of audience (highly educated, affluent with active purchasing trends, professionals, managers and company decision makers, active in community and socially aware)

Web - .10, .38, .80-.81, .83-84, .106-107, .121, .130, .133-134, .220-223, .233-234, .237, .244, .250

C. Stressing that PR ads are cheaper than commercial ads

Web - .70, .237

D. Noting that PR has less listener tuneout

Web - .70, .130

III. How Underwriting Works

GUIDE - III-23-34, 45; IV-26, 28-29

A. Length of ad

Web - .59, .70, .81, .102, .131, .172, .220, .228, .240, .249

B. Content (slogan, product/service description, company location)

Web - .59, .70, .81, .102, .131, .172, .220, .228, .240, .249

C. Play time (e.g. ability to rotate ads as often as company wishes - the same traffic as with commercial)

Web - .59, .112, .131, .172, .228, .240, .249

D. Must conform to FCC and station guidelines and rules

GUIDE - II-30, 44; III-45; IV-31; Appendix

Web - .102, .172, .220, .228, .240, .249

E. Examples of permitted ads

GUIDE - III-22, 34, 47

Web - .59, .81, .228, .240

IV. List of other Companies who Underwrite

GUIDE - III-23-34; IV-32

Web - .40-42, .61-62, .69, .103-104, .109, .123-124, .135-136, .175-178, .224, .226-227,
.231-232

A. Putting company Links on Website

GUIDE - II-43

Web - .173

V. Testimonials from Current Underwriters

GUIDE - III-48

Web - .110-111, .113, .132

VI. Rates

GUIDE - III-46, 48; IV-24, 28-29

Web - 137-138, 174, 220

VII. Member Benefits

Web - 163, 251-255

- A. Subscription to Newsletter
- B. Discount Card / Business Patron Club
- C. Member only events and giveaways

VIII. Actual ads on the Web

Web - 160-162

IX. Importance of Including Cites to Studies

GUIDE - III-14

Web - 11 (cites Liebold, editor of the Guide); 38, 59, 133, 234

Underwriting VPR

VPR Home
Page

About
VPR

Program
Schedule

Staff

Guided
Tours

One-Stop
Comments

Where
We're
Now

Eye on
The Sky



An Exceptional Investment!

Vermont Public Radio is non-commercial and is supported by thousands of individuals and businesses such as yours. When you underwrite VPR, your support is acknowledged on the air. These underwriting messages have a great impact on our listeners and create a positive image for your company with this very desirable audience.

59.1% of VPR members surveyed would be more apt to purchase the products or services of businesses which support VPR than those which do not.

On-air underwriting announcements associate your business with the quality programming on Vermont Public Radio. Recent surveys indicate that listeners remember your company name, think positively about your business's support for public radio and are influenced by this association in their decision to purchase your products or services.

The Benefits of Underwriting

Businesses and corporations surveyed about their underwriting identified three significant benefits:

1. Companies see underwriting as a parallel to advertising, a cost-effective way to put their company's name before an audience of well-educated, professional and affluent consumers.
2. Because public radio enriches the quality of life, they view their support as a contribution to the community where they do business, as is their giving to the United Way or a local arts group, and find it creates good will.
3. Underwriting enhances the company's image among employees and shareholders, demonstrates a commitment to support an important institution and augments its public relations programs.

Underwriting Policy and Plans

- VPR's Underwriting Policy
- We have two major underwriting categories: a Total Audience contribution is the most reasonably priced and most flexible way to underwrite the programming on Vermont Public Radio, while

EX-615 237

Special Focus contributions allow you to show your support for specific programs.

- VPR's singular Audience Profile

For further information, please contact Robin Turnau, Development Manger for VPR via email at r.turnau@vprnet.org or by phone at (802) 654-4312.

[Back to the Support VPR page](#)



*Web hosting and design services provided by
The Connecticut River Network*

EX.615 238

About
VPR

Program
Schedule

Mail

Guided
Tour

Donations
Comments

What
New

Live In
The 90s

Vermont Public Radio seeks underwriting representing a broad spectrum of funding sources. All funding sources are considered. However, potential conflict of interest and possible listener misperception or confusion regarding the funder's role and/or influence on programming will be considered in accepting or rejecting underwriting. Vermont Public Radio does not allow underwriting announcements that promote a political candidate or positions on public policy.

Guidelines for Underwriting Announcements

Underwriters of the programming on Vermont Public Radio are legally required to be identified. Although contributors receive on-air acknowledgements, the Federal Communications Commission has unequivocally stated that such acknowledgements may be made "for identification purposes only and should not promote the contributor's products, services, or company." Accordingly, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease.

FCC guidelines provide that "...donor acknowledgements utilized by public broadcasters may include (1) logos or slogans which identify and do not promote, (2) location, (3) value neutral descriptions of a product line or service, (4) brand and trade names and product or service listings."

FCC guidelines specifically prohibit noncommercial stations from broadcasting announcements that promote the sale of goods and services of for-profit entities in exchange for consideration paid to the station.

On Vermont Public Radio, your underwriting announcement must be one sentence of twenty words or less and can state your name, location and describe your product or service without making a qualitative, comparative or promotional statement. Phone numbers are permitted, and each digit counts as one word. The company's name may appear only once in each announcement and the words "you", "your", "we" and "our" are not permitted.

Following an introductory phrase ("Portions of today's programming are made possible by our contributing listeners and by..."), an announcement might read as in this example:

"... William Tell Products, manufacturers of bows, arrows and archery accessories in Brattleboro, Vermont."

➤ [Back to the Underwriting VPR page](#)

EX 615 240

**VERMONT PUBLIC RADIO
UNDERWRITING**

an exceptional investment

Vermont Public Radio is non-commercial, however the Underwriting messages you hear make an impact on the listeners and create a positive image for your company.

The on-air announcements directly associate your business with the quality programming on Vermont Public Radio. Recent surveys indicate that listeners remember your company name, think positively about the fact that your business supports public radio, and are influenced by this association in their decision to purchase your products or services.

**UNDERWRITING IS AN EFFECTIVE PUBLIC
RELATIONS OPPORTUNITY**

When businesses and corporations were surveyed about their underwriting, they identified three significant benefits:

1. Companies see Underwriting as a parallel to advertising, a cost effective way to put their company name before an audience of well-educated, professional and affluent consumers.
2. They view their support as a contribution to the community where they do business, just as they would give to the United Way or a local arts group. Public radio enriches the quality of life with outstanding programs.
3. They build goodwill, enhance their image among employees and shareholders, demonstrate a commitment to support a quality institution, and augment their public relations program.

**YOUR UNDERWRITING ANNOUNCEMENTS
ARE ASSOCIATED WITH EXCEPTIONAL PROGRAMS**

An underwriting announcement can include your name, location and describe your product or service without making a qualitative or a promotional statement in the on-air acknowledgement.

An underwriting announcement might read as follows:

"Portions of today's programming are made possible by the generosity of William Tell products, manufacturer of bows, arrows and archery accessories in Brattleboro, Vermont."

We can work with you to create the appropriate non-commercial message that is within the guidelines stated. Your message has an impact on the audience by being announced following or preceding an uninterrupted program.

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

Benefits Description

VPR PROFILE

The most recent survey of the membership of Vermont Public Radio shows its singular quality. Our listeners are affluent, well-educated, leaders in business and their communities, vitally interested in the arts and in public affairs, and involved in sports and outdoor activities. Vermont Public Radio reaches a weekly core audience estimated at over 130,000 listeners in Vermont, New Hampshire, Massachusetts, New York, southern Quebec and Montreal and is now the most listened-to radio station in Vermont.

OUR LISTENERS ARE MATURE

44.1% are 25 - 49 years old
26.8% are 50 - 64 years old
28.5% are 65+ years old

THEY ARE EXTREMELY WELL-EDUCATED

85.1% hold a college degree
56.0% did post-graduate study

THEY HAVE ABOVE-AVERAGE ANNUAL HOUSEHOLD INCOME

16.6% \$25,000 - \$34,999
19.4% \$35,000 - \$49,999
38.4% \$50,000 - \$99,000
15.9% \$100,000+

IN THE PAST YEAR...

90.3% dined out	86.5% gardened
85.7% visited a museum	83.4% went to the movies
80.0% went hiking	74.3% attended live theatre
68.8% went cross-country skiing	64.3% went to craft fairs
64.1% went to classical music concerts	63.1% purchased gourmet foods
57.1% purchased sporting goods	57.0% went cycling
54.6% went boating/sailing	53.9% went canoeing
48.4% went camping	48.0% bought fine wines
45.3% exercised at a health club	44.8% bought premium beers
42.1% bought audio/video equipment	38.3% went downhill skiing
32.7% played tennis	26.8% bought computers

(Survey conducted March - April 1993 by the UVM School of Business Administration)

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Audience Description

SPECIAL FOCUS UNDERWRITING

Special Focus Plans enable you to target a specific audience by choosing the programs in which some of your announcements will appear. With these plans, one-third of your announcements each week are placed during any of the premium listening times listed below or in other programs which you choose. The remaining announcements rotate throughout the VPR schedule allowing you to reach the full range of Vermont Public Radio listeners.

Premium Listening Times

Morning Edition	6:00 - 9:00 a.m.	Monday - Friday
Fresh Air/All Things Considered	4:00 - 6:30 p.m.	Monday - Friday
Weekend Edition	8:00 - 10:00 a.m.	Saturday - Sunday
Garrison Kellor Show	6:00 - 8:00 p.m.	Saturday

Special Focus Plans are available for a minimum of 13 consecutive weeks. There is a 5% discount for 52-week plans.

PLAN #1: Nine announcements per week at \$16 per announcement

	13 weeks	26 weeks	52 weeks
Cost	\$1,872	\$3,744	\$7,113

PLAN #2: Six announcements per week at \$17 per announcement

	13 weeks	26 weeks	52 weeks
Cost	\$1,326	\$2,652	\$5,038

PLAN #3: Three announcements per week at \$19 per announcement

	13 weeks	26 weeks	52 weeks
Cost	\$741	\$1,482	\$2,815

GUARANTEED FIXED POSITION ANNOUNCEMENTS

Guaranteed fixed position underwriting announcements are available at a flat rate of \$30 per announcement. Underwriter requests for specific positions are subject to availability.

52-week rates shown include discount. All rates are net to Vermont Public Radio.

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Underwriting Option: Special Focus Underwriting

TOTAL AUDIENCE PLAN UNDERWRITING

The Total Audience Plan is Vermont Public Radio's most reasonably priced and most flexible plan for underwriting. You may choose as few as one or as many as ten announcements per week under this plan.

Your underwriting announcements will rotate throughout all of the programming on VPR, including popular news programs, evening, weekday and weekend programming. The rotation is designed to reach all the segments of our listening audiences.

There is a 5% discount for all 52-week plans.

COST

\$15.00 per announcement

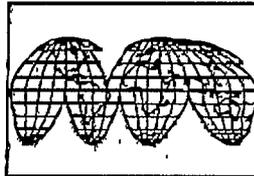
Weekly Schedule	1x	2x	3x	4x	5x
52 Weeks	\$780	\$1,482	\$2,223	\$2,964	\$3,705
26 Weeks	\$390	\$780	\$1,170	\$1,560	\$1,950
13 Weeks	\$195	\$390	\$585	\$780	\$975

Weekly Schedule	6x	7x	8x	9x	10x
52 Weeks	\$4,446	\$5,187	\$5,928	\$6,669	\$7,410
26 Weeks	\$2,240	\$2,730	\$3,120	\$3,510	\$3,900
13 Weeks	\$1,170	\$1,365	\$1,560	\$1,755	\$1,950

52-week rates shown include 5% discount. All rates are net to Vermont Public Radio.

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Underwriting Option: Total Audience Plan Underwriting



LIVING ON EARTH

Living on Earth is a weekly public radio news magazine about the people and politics of environmental change. It is one of the most important new public radio programs and its acceptance has been unprecedented. It now airs on over 200 NPR stations nationwide.

In the 20-year tradition of National Public Radio news, *Living on Earth* brings high quality, balanced reporting on the environment to public radio listeners on a consistent basis. The series provides in-depth coverage of such environmental issues as biodiversity, sustainable development, and climate change. It examines the choices involved in such critical areas as economic development, toxic substances, waste management and energy resources. *Living on Earth* has become an important source of information about the environment as well as an in-depth resource for those seeking to learn more.

Living on Earth is heard every Monday evening from 6:30 p.m. til 7:00 p.m. on Vermont Public Radio.

FUNDING

Living on Earth offers a corporate sponsor the unique opportunity to reach an involved and active segment of the region's citizenry, people who are concerned about the environment and who are eager to learn more about the critical choices that face us all. The corporate sponsor will receive credit at the open and close of the program and will be mentioned in two promotional announcements each week.

COST: \$3,000 PER YEAR

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Sample Program Underwriting

**VERMONT PUBLIC RADIO
GUIDELINES FOR ON-AIR UNDERWRITING ANNOUNCEMENTS**

UNDERWRITING SOURCES:

Vermont Public Radio seeks underwriting representing a broad spectrum of funding sources. All funding sources are considered. However, potential conflict of interest and problems of listener misperception, confusion, or similar reasons regarding the funder's role and/or influence on programming will be considered in accepting or rejecting underwriting.

IDENTIFICATION OF UNDERWRITERS:

Underwriters of the programming on Vermont Public Radio are legally required to be identified. Although contributors receive on-air acknowledgements, the Federal Communications Commission has unequivocally stated that such acknowledgements may be made "for identification purposes only and should not promote the contributor's products, services, or company." Accordingly, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.

FCC guidelines provide that "...donor acknowledgements utilized by public broadcasters may include (1) logos or slogans which identify and do not promote, (2) location, (3) value neutral descriptions of a product line or service, (4) brand and trade names and product or service listings."

FCC guidelines specifically prohibit noncommercial stations from broadcasting announcements that promote the sale of goods and services of for-profit entities in exchange for consideration paid to the station. Vermont Public Radio does not allow underwriting announcements that promote a political candidate or positions on public policy.

On Vermont Public Radio, your underwriting announcement can state your name, location and describe your product or service without making a qualitative, comparative or promotional statement. Phone numbers are permitted, and each number counts as one word.

Following the required introductory phrase, the announcement of less than twenty words might read as this example:

"Portions of Today's programming are made possible by William Tell Products, manufacturer of bows, arrows and archery accessories in Brattleboro, Vermont."

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Underwriting Guidelines

VPR'S 1993 Underwriters

The businesses and individuals who supported

Vermont Public Radio through its underwriting program provided almost 30 percent of the annual operating budget in 1993.

VPR would like to say thank you to the following supporters:

A & B Motors
 Accent Travel
 Almarin Volvo
 Amalgamated Culture Works
 American Craft Festival Associates in Oral Surgery
 Banknorth Group
 Barton & Boardman Interiors
 Best Book Shop
 Bear Pond Books
 Blue Cross and Blue Shield
 Board & Basket
 BottomsUp Diaper Service
 Bourne's Oil
 Bourne's Tazaco Service Center
 Bradfords
 Dr. Carl and Ann Brandon
 The Brattleboro Retreat
 The British Clockmaker
 Brown and Jenkins Coffee
 Matthew Burke Furniture
 Burlington College
 Burlington Free Press
 Burlington Violin Shop
 Bygone Books
 Calvert Group
 Caribbean Clear
 Casamowitz Family Center
 CDI
 Central Vermont Public Service
 Chapters Book Store and Cafe
 Chushman and Bent Booksellers
 Chemical Waste Management
 Chipenden Bank
 Church and Main Advertising
 The Chocolate Shop
 Clean Yield Group
 Clearwater Filtration

Gold Hollow Cider Mill
 Community College of Vermont
 Community Health Plan
 Comant Custom Brass Copycat
 Craftproducers
 Danny Dover Piano Service
 Dean Hill Motors
 Deja Vu Cafe
 Department of Education
 Designer Gold
 Didier Delmas Photography
 Edgeworks Displays
 Tony and Dona Egan Flap Inc.
 Ellis Music
 Essex Rental
 Evergreen Gardens
 Fall Mountain Ford Toyota
 F.H. Gillingham and Sons
 First Vermont Bank
 Flynn Theatre
 Ford Insurance
 Franklin Lamoille Bank
 Frederick Johnson Piano Showroom
 Furchgott Soundiffs Gallery
 Gallery Northway
 Galloway Real Estate
 Gardener's Supply
 Glende and Mitchell Garden Design
 Goddard College
 Golf and Ski Warehouse
 Grafton Foods Crew
 Country Ski Center
 Grafton Village Cheese Company

Green Mountain Art and Framing
 Green Mountain Power
 Grossman and Jacobs
 Dr. Kiefer Haghkandian
 Hanover Consumer Coop
 Harrington's Jewellers
 Bruce and Carol Hewitt
 Hilton Home Center
 Historic Windsor
 Hopkins Book Shop
 IBM
 Inn at Montpelier
 International Paper Company
 JBI, Inc.
 J.K. Adams
 John A. Russell Corp.
 Junction Frame Shop
 Kellher Samuels
 Kimball Union Academy
 King Arthur Flour
 Lake Champlain Ferries
 Lang Associates
 Lewis Associates
 Libac Hedge Book Shop
 Long Distance North
 Marble Bank
 Marlboro College
 Martha Diebold Real Estate
 Mason Associates
 McIure North American
 McKeley McCoy and Company
 MCHW
 Marrell
 Millstone Restaurant
 Millne Travel
 Dr. Jan Mishcon
 Morrisville Hardware
 Mount Ascutney Hospital
 Music Stand
 Audrey Gilbert Myers

National Life
 New England Culinary Institute
 New England Finest
 New England Jeep Eagle Dealers Association
 Nordic Toyota
 Northshire Books
 The Old Tavern at Grafton
 Onion River Sports
 Optometric Associates
 Organum Natural Foods
 Paul, Frank and Collins Pauline's
 The Perry Restaurant Group
 Persian Gardens
 Peter Pap Oriental Rugs
 Pink Shutter Flower Shop
 Plagman Kirby and Daughters
 Pollution Solutions
 Professional Camera
 Putney School
 Repeographics of New England
 Revolution
 Riverdell Books
 Robson Bilgen Architects
 Roto-Rooter
 Saxon Anderson Wolinsky and Sunshine
 Craig Schumacher Printing and Decorating
 Seventh Generation Retail Store
 Shelburne Farms
 Simon Fraser
 Stein Domain
 Stehms
 Southern Vermont Education Center

South Farnett Organic Farm
 Studio Jeweler
 Syracuse Company
 Synetics Plus Computers
 Tally Systems
 Timberpeg
 Town and Country of Woodstock
 Tit-Nordic Toyota
 Tygate Company
 Ultimate Reflections
 Ulrich Waldman Custom Tailor
 Unadilla Theatre
 Unicorn
 Union Bank
 University of Vermont Continuing Education
 Upper Valley Carpet Center
 Upper Valley Food Coop
 Vermont Association
 Vermont Academy
 Vermont Antiques
 Dealers Association
 Vermont Book Shop
 The Vermont Country Store
 Vermont Fund Advisors
 Vermont Handcrafters
 Vermont Historical Society
 Vermont National Bank
 Vermont Radiologists
 Vermont Software
 Vermont Veterinary
 Vermont Women's Health Center
 Village Bookstore
 Vineyard Brands
 Von Bergen Jeweler
 Wake-Rubin
 West Central Services
 Wilson's Chocolate
 Willie Racine's Jeep Eagle
 The Windham Foundation
 Woodbury College
 Wool and Feathers
 Yankee Book Shop

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Underwriter Listing & Thank You

The British Clockmaker.

JOSEPH RAYMOND BATES, OWNER
150 WEST STREET
NEWFANE, VERMONT 05454-0401
TELEPHONE 848-1616-7170



Mr. Fred Hill
Vermont Public Radio
107.9 Ethan Allen Avenue
Colchester, VT 05444

29th November 1991

Dear Fred:

Enclosed is the new contract for my underwriting schedule for 1992.

I never dreamed when I started underwriting in February 1991 that it would generate such good will. People, literally stop me in the street or telephone me to thank me for "supporting public radio" or their favorite programs. Makes me feel like a philanthropist!

But, while "virtue may be its own reward", underwriting has proved to be the most effective form of advertising I have ever done, beating out magazine display ads and direct mail promotions many times over.

Admittedly, mine is an unusual business and one that lends itself uniquely to the listener profile of public broadcasting. However, to have obtained these results in, to date, ten months of underwriting in a serious recession is remarkable and far beyond my expectations.

Thank you for all your assistance...

Yours sincerely,


Joseph R. Bates

VERMONT PUBLIC RADIO UNDERWRITING KIT INSERTS

VPR Underwriter Testimonial

Prepared by Liebold & Associates, Inc.

Selling & Servicing IV-33

WUWM'S UNDERWRITING/MEDIA KIT

by Ron Kotacki, Development Director, WUWM, Milwaukee, WI

With competition increasing for every dollar earmarked for promotion, advertising or public relations, public radio stations need to become more aggressive, and frankly, more professional in marketing themselves as a viable "media buy." This is especially true in today's economy where corporations rarely offer money from a purely philanthropic standpoint. Their interest in underwriting seems to lie more with favorable positioning and marketing themselves within our targeted audience niche. A professional media kit can impact decision makers to consider your station as an effective means to achieve their marketing goals.

Six years ago, WUWM Milwaukee Public Radio strategically changed its format to all news and information — from news, classical music and jazz. Along with reevaluating its mission and goals to serve the community better, WUWM used this opportunity to take a closer look at its overall marketability. The result was the development of a media kit that both positioned us within the marketplace, and defined investment opportunities for corporations to enhance their marketing plans.

THE MEDIA KIT

Developing a media kit for public radio is one of the best exercises in marketing a development director can undertake. It makes you focus on the selling points of public radio, and consider how to "package" your presentation. By doing so, you develop clearer, more precise message points for presenting your station to prospective underwriters. A professional media kit adds credibility to your station among the people making the underwriting/media buy decisions. By looking more professional, you're taken more seriously as a real player in the market.

To begin, take a close look at your competition. Look at newspapers, magazines, television stations, business publications, commercial radio, billboard companies, community events and other non-profits. Gather as

many local media kits as possible and critique their content and design. This exercise will help you better understand your market and the niche you occupy — or want to occupy.

Remember to examine media kits from public radio stations in other markets. You'll find an amazing amount of work has already been done for you. Simply retooling existing information to fit your own market make be all that is necessary for some elements. This process is especially important if you have a tight budget.

WHAT TO INCLUDE IN THE KIT

What should you include? When deciding on the materials for your kit, consider what will help a potential underwriter make an informed decision about adding your station to their overall marketing plan. Here are some recommended materials:

- coverage map
- program listing or grid
- rate card
- audience demographics (income, education, occupation)
- sample underwriters and funding credits
- message points about the value of public radio and "how to use" it as part of a marketing plan
- annual report
- station newsletter

Your audience demographics offer tremendous selling points for prospective underwriters. For our kit, we wanted the detail available from MediaAudit. This information enabled us to graphically display — using pie charts — statistics on our audience: age, income, education, and occupation. We gather additional data from MediaAudit to custom-tailor an appeal based on specific consumer traits for individual underwriting prospects. This information also helps us to understand and further define the station's position and advantage within the marketplace.

Even your rate card is a selling point. WUWM presents alternative underwriting schedules and prices related to programming and broadcast time. This helps to attract corporations from diverse industries, with varied budgets and marketing goals.

DESIGNING AND PRODUCING THE KIT

Once you've decided on the components of the media kit, the real fun starts! My suggestion is to secure the help of an advertising, public relations, and/or marketing agency in designing the kit — since they're the experts. WUWM was fortunate to find an avid fan of our station who just happened to own an ad agency. If that's not possible, just remember that almost every ad agency is involved with some "pro bono" work — why shouldn't it be yours? Besides, you have an added advantage, you can give them on-air credit.

Let the ad agency create! My advice is to give them free rein in the beginning; don't hinder the creative process. What you'll find is that the agency will be interested in turning the project into a showpiece. They know that your kit will give the agency valuable exposure wherever you use it.

Printing the kit is another area where a full donation or trade is possible. The agency may even be helpful in lining this up, since most art directors have their favorite printers and film houses where they prefer to do business. Be sure and give credit to the people who helped you, both on the kit and on air. This is extremely important to counter objections from donors regarding what might appear to be an excess cost. Since a project of this magnitude can easily cost \$20,000 to \$25,000, it's a great feeling to be able to say it was all donated.

USING THE KIT

Use your kit every chance you have! It makes a great first impression. Put copies of your kit in the hands of media buyers at the ad agencies in your market. Give copies to the fine arts organizations in town. Remember, they all have advertising budgets, too, and there's no reason why you shouldn't be an integral part of their marketing campaigns.

Everyone wants to be associated with a winner. So, send your new kit to your current clients. It will reinforce the rightness of their underwriting decision, and enhance the relationship you've established. Quality begets quality... and having a first-rate media kit can only enhance your market position.

Revenue results are vital, even through gauging the effectiveness of a media kit goes far beyond actual dollars raised. Since our format change in 1988, when we raised over \$253,000, WUWM Milwaukee Public Radio has grown continuously. This past fiscal year (1993) we achieved over \$442,000 in community support. Our media kit played an integral role in this growth through presenting both our community value and market effectiveness. □

Kit inserts follow

Ron Kotecki joined the staff of WUWM Milwaukee Public Radio in 1981. For the past six years, he's served as Development Director. Prior to becoming Development Director, he was WUWM's Membership Director, followed by Underwriting Director.

WUWM

HOW TO USE PUBLIC RADIO

Perhaps more than any other medium, public radio is as much a *point of view* (not as it is an advertising vehicle.

That's because it has a unique power to shape people's attitudes. Research reveals that the overwhelming majority of these public radio listeners surveyed are favorably inclined toward underwriters they hear mentioned on the air.

Much of that attitude can be attributed to the *form and style* of the message. Federal regulations restrict the use of conventional commercial advertising copy. Instead, they direct that public radio's messages simply: (1) identify the sponsor; (2) give factual information; and (3) provide "value neutral" descriptions of the underwriter's products or services.

These are the criteria for WUWM's underwriting messages. The WUWM staff will assist in the preparation of this copy (usually 15 to 20 seconds in length), and professionally record it with a staff announcer for on-air broadcast. There is no extra charge for this service.

WHO USES WUWM?

Shops and businesses who wish to be associated with public radio and its audience...people who want to reinforce their own quality image by having their message heard in a superior programming environment.

Professional firms such as lawyers, accountants, architects, and physicians who might normally eschew conventional advertising media, but who nonetheless recognize the need to raise awareness levels in the marketplace for their individual practices or specialties, particularly among community leaders.

Corporations—either publicly or privately held—who feel a deep commitment to serve the communities in which they function, and want the public to be aware of their sensitivity and generosity.

Foundations that are vitally concerned that their charitable funds are utilized for the greatest possible good, and who recognize the growing need for public broadcasting as an important informational and educational force in the community.

Family Philanthropic Funds whose trustees are anxious to underwrite efforts and institutions that will reflect most favorably on the family's charitable initiatives, and who see public radio as one vital way to meet their self-directed obligations.

WUWM'S UNIQUE ADVANTAGES

WUWM's audience is demographically desirable. Better educated, more affluent, and highly influential, they represent a market spectrum virtually inaccessible through other broadcast media alone.

But, equally as important, underwriting messages on WUWM are not broadcast in a cluttered commercial advertising arena; messages never interrupt regular programming. Copy is kept clear of superlatives and hyperbole. It's direct, succinct, and informational. Messages are designed to:

- develop awareness for institutional or product names
- build goodwill and demonstrate good corporate citizenship
- establish a favorable presence in the community
- distinguish your enterprise from the competition's
- reach and influence the recognized market-secter

QUALITY BY ASSOCIATION

Advertising agency media buyers and executives in public relations firms understand the importance of the manner in which their clients' messages come. Quality begets quality. That's one reason why more and more business and professional firms set aside a portion of their marketing/communications budgets for public radio. It is one of the most *cost-effective strategies* for reaching those customers and prospects who are quality sensitive...and who spend comparatively less time with commercial media.

The WUWM audience represents a market share that is admittedly smaller, but arguably more influential. And, it is a demographic group that can easily be targeted by using just a single media buy: WUWM.

WUWM KIT INSERTS

WUWM

COVERAGE



WUWM is an FM radio station licensed to the University of Wisconsin Board of Regents and operated by the University of Wisconsin-Milwaukee College of Letters and Science.

WUWM broadcasts with a power of 15,000 watts at 89.7 on the FM radio dial. The station's primary signal extends through all of metropolitan Milwaukee, reaching west to Wausau, and north and south beyond Port Washington and Racine. It's secondary signal reaches Marinette to the north, the Illinois/Wisconsin border to the south, and west through all of Jefferson County.

WUWM went on the air more than a quarter of a century ago. As a charter member of National Public Radio, WUWM carries no commercial announcements. Instead, it is funded primarily by private listener donations, contributions by local business, professions, and foundations, as well as the Corporation for Public Broadcasting and the University of Wisconsin-Milwaukee.

Because of the station's programming content it tends to appeal to audiences that are somewhat different than those who listen only to commercial (commercial) AM and FM radio. Statistically, WUWM's audiences are better educated, more affluent, and more influential.

Indeed, many business, professions and foundations are convinced that WUWM is a highly cost-effective medium for reaching a listener group with such desirable characteristics. By acknowledging their support of the station on the air—they not only generate awareness of their existence among listeners, but help to shape favorable attitudes among leaders in the community who appreciate public radio.



WUWM KIT INSERTS

Prepared by Liebold & Associates, Inc.

Presenting & Prospecting III-27

WUWM

UNDERWRITING CREDITS

Although messages are seldom more than 15 seconds long, underwriters have sufficient time to clearly identify themselves, provide location information, and — often — a "value-neutral" description of their products or services. The WUWM staff will be happy to collaborate in writing the copy, and a professional on-air announcer will record the message at no additional charge for talent or production facilities.

SOME TYPICAL UNDERWRITING CREDITS

This portion of WUWM Milwaukee Public Radio programming is made possible by:

American Fireplace ... designing and installing fireplaces for homeowners and builders. American Fireplace showroom located at the intersection of 194 and Highway 164 in Waukesha.

Arnoff & Associates ... providing accounting, tax and fee-only personal financial planning services to executives and professionals.

Robert W. Baird & Company ... serving Wisconsin and the Midwest as a major corporate and municipal underwriter.

Blue Cross & Blue Shield United of Wisconsin, the "New Blue" ... providing health care insurance to the businesses and people of Wisconsin for more than 50 years.

CareNetwork, Incorporated ... serving southeastern Wisconsin through its subsidiaries ... Wisconsin Health Organization, WHO, an HMO ... and Network, R.P.O., a preferred provider option.

CFU, Computer People Unlimited ... providing Wisconsin companies with data processing consultants for special assignments. CFU, serving clients of all sizes in diverse industry groups.

Emergency Medicine Specialists ... physicians providing comprehensive care 24 hours a day at St. Michael Hospital, located at 25th and Willard, south of Silver Spring Drive.

Flagstone Landscaping, Incorporated, landscape design and contracting ... providing landscape designing, construction, planting and maintenance services for residential and commercial properties in the Milwaukee metro area.

Great Harvest Bread Company, milling and baking Great Plains wheat ... dedicated to the time-honored art of bread making. Great Harvest Bread Company, located in Whitefish Bay where Silver Spring meets North Lake Drive.

Marquette Electronics ... serving health care needs internationally through diagnostic and monitoring medical equipment.

The staff of **Marshfield Clinic** ... and its more than 400 physician specialists who support Public Radio in greater Milwaukee.

Midwest Express Airlines ... offering non-stop service to major business destinations coast to coast.

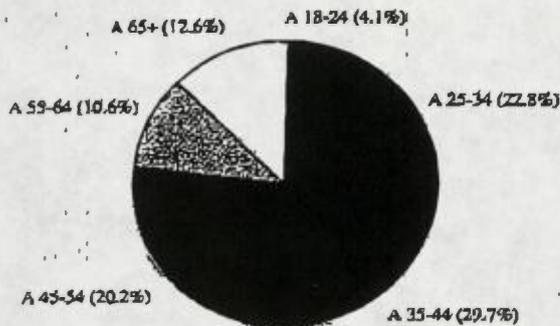
Samuel, Johnson, Appel & Company ... certified public accountants, specializing in consulting to the closely held business, celebrating 40 years of serving greater Milwaukee and Wisconsin.

WICOR ... parent company of Wisconsin Gas and Ste-Lite Industries. Wisconsin Gas distributes clean-burning natural gas to homes and industries throughout the state ... and Ste-Lite Industries is an international manufacturer of pumps and water processing equipment.

WUWM KIT INSERTS

**WUWM FM89.7
MILWAUKEE PUBLIC RADIO
WEEKLY AUDIENCE DISTRIBUTION**

WUWM is the choice among Adults 25-54 for in-depth news and information. This much sought-after consumer group comprises nearly 73 percent of WUWM's total audience. When your underwriting message airs on WUWM, your company is identified with quality public radio programming.



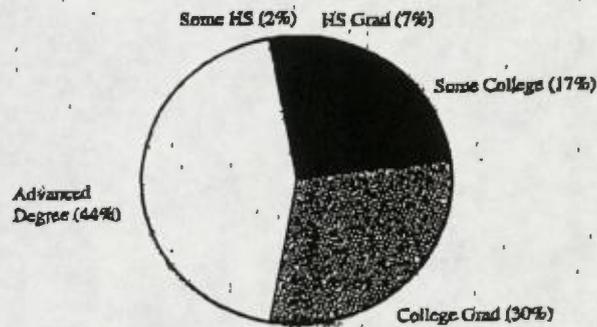
Source: Fall '93 Arbitron. Metro Weekly Clinic, Mon-Sun, 6AM-Midnight

WUWM KIT INSERTS

WUWM FM89.7
MILWAUKEE PUBLIC RADIO

A WELL EDUCATED AUDIENCE

When your underwriting message airs on WUWM Milwaukee Public Radio, it is heard by some of Milwaukee's most educated listeners. Thirty percent of WUWM's audience has earned a College degree with an additional 44% holding an advanced College degree. This is six times the market average.



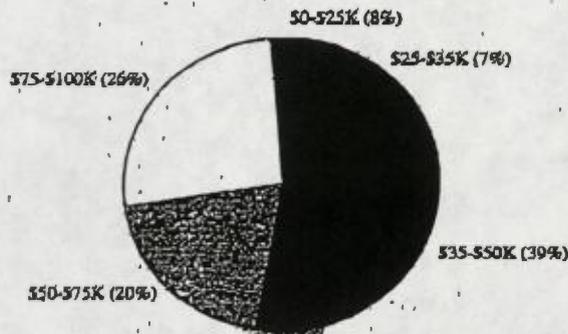
Source: The Media Audit, August/September 1993

WUWM KIT INSERTS

**WUWM FM89.7
MILWAUKEE PUBLIC RADIO
ANNUAL HOUSEHOLD INCOME
OF WUWM LISTENERS**

One of the unique elements that defines the audience of WUWM is income. A full 79% of WUWM's audience has an average household income of more than \$35,000. In fact, 46% of WUWM's audience has an annual household income of more than \$50,000!

When your underwriting message airs on WUWM, your company is identified with quality public radio programming and is heard by influential listeners in Greater Milwaukee.



Source: The Media Audit, August/September, 1993

WUWM KIT INSERTS

WUWM FM89.7
MILWAUKEE PUBLIC RADIO
REACHING THE PROFESSIONAL AUDIENCE

When your underwriting message airs on WUWM Milwaukee Public Radio, it is heard by the hard to reach professional audience.

32% of WUWM's audience are proprietors/managers

20% are business owners/corporate officers

22% are professional/technical workers

20% influence business banking decisions

In addition to reaching this influential segment of the population, your underwriting message is identified with quality public radio programming.

Source: The Media Audit, August/September, 1993

WUWM KIT INSERTS

WUWM

F M / 8 9 7

SCHEDULE A

MORNING EDITION 5-10AM M-F

Continuous up-to-the minute news, background analysis, social and political commentary, plus comprehensive coverage of the arts, sports, science and business features from NPR's Bob Edwards in Washington.

ALL THINGS CONSIDERED 4-6PM / 6:30-7PM M-F

Every afternoon and evening NPR offers listeners an intelligent, in-depth presentation of the day's events in All Things Considered. The program blends news, business and science reports, with newsmaker profiles and interviews, and human interest and arts features.

MARKETPLACE 6-6:30PM M-F

Offering a unique mix of hard news, features and investment information, Marketplace gives the audience a comprehensive overview of what happened on Wall Street and the business world at large.

WEEKEND EDITION WITH SCOTT SIMON 7-9AM / 10-12AM SAT.

The pace of the week changes on Saturday, and Weekend Edition reflects that change. The NPR program reports up-to-the minute news, conducts analysis on personal matters like health and finance, small town news, movie and book reviews, and sports. Weekend Edition also has regular discussions with a number of commentators and critics, including veteran journalist Daniel Schorr and film critic Elvis Mitchell.

SOUND MONEY 12N, 1PM SAT.

Public Radio's only national call-in program where listeners can talk with experts in the financial world.

Milwaukee Public Radio
University of Wisconsin - Milwaukee
Box 374, Milwaukee, WI 53201-0374
(414) 229-1222 - FAX (414) 229-3739

WUWM KIT INSERTS

WUWM

F 1 1 B 9 7

1994 PROGRAM UNDERWRITERS

AAA Sign Company
 Aco Chemical Products, Inc.
 Adura
 Ads Inc.
 Allied Computer Group Companies of WI
 American Fireplace Distributors, Inc.
 American Mobile Health Systems
 Amow & Associates
 Arwin Builders' Specialties, Inc.
 Attorney Thomas E. Bush, S.C.
 Audubon Count Books Ltd.
 Barbara & Jack Reem Family Fund
 Barnes, Walters & Associates, Inc.
 Blue Cross & Blue Shield United of Wisconsin
 Borgwardt Funeral Home
 Bresler Edel Framing Gallery
 von Briesen & Punell, S.C.
 The Business Journal
 C.G. Schmidt, Inc.
 CaraNetwork, Inc.
 Computer People Unlimited, Inc.
 Cook & Franke, S.C.
 Cosser Mullen Photography
 Cunningham, Lyons & Cabaniss, S.C.
 David Hobbs Honda
 Deroo Industries, Inc.
 Ed Witra Vends Ford
 Ehlinger, Elegen & Krill, S.C.
 Emergency Medicine Specialists, S.C.
 Flagstone Landscaping
 Forest Tire Center/Toyo Tires
 Great Harvest Bread Company
 Gmoxemaal Foundation, Inc.
 Hamilton Investments
 Harry W. Schwartz Bookshops
 Hutch Temporary Services
 Hulsbosse Photography
 InterPlan Office Pavilion
 Jack Langer Pharmacy & Gifts
 Keane, Inc.

Kopp's Frozen Custard
 LaCasita Mexican Cafe
 Lea Calvey & Associates, S.C.
 Leonus-Sayles & Company, Inc.
 Marquette Electronics Foundation
 Marshfield Clinic
 MGLC Mortgage Guaranty Insurance Corp.
 Midland Video Productions
 Midwest Express Airlines, Inc.
 Miller Compressing Company
 Milwaukee Symphony Orchestra
 Norin State Bank
 Outpost Natural Foods
 Pabst Theater
 Patrick & Anna M. Cuddey Fund
 Planned Parenthood of Wisconsin, Inc.
 Plunkett Ryscich Architects
 Podell & Podell, Attorneys at Law
 Public Policy Forum
 1451 Renaissance Place
 Richard Podell & Associates
 Robert Silversohn & Associates, S.C.
 Robert W. Balm & Company, Inc.
 Sattell, Johnson, Appel & Company, Inc.
 Technix
 Telecheck Wisconsin, Inc.
 Unicom
 University Lake School
 W.H. Brady Company
 Walkers Point Center for the Arts
 Wandsunder Landscape Architects
 Wauwatosa Realty
 Wepco-Wisconsin Electric Power Company
 Weyco Group, Inc.
 Whyte Hirschboeck Dudek, S.C.
 WICOR, Inc.
 Wisconsin Landscape Contractors Association
 WPS-Wisconsin Physicians Services
 Zimmermann Printing Company

Milwaukee Public Radio
 University of Wisconsin - Milwaukee
 Box 113, Milwaukee, WI 53201-0113
 (414) 229-3664 • FAX (414) 229-5749

WUWM KIT INSERTS

PROSPECTING: The Lifblood of Corporate Support

By Cathy Ives, Director of Corporate Relations, WEVO,
New Hampshire Public Radio, Concord, NH

Why should a company underwrite with your public radio station?

- a) To be considered a "good corporate neighbor"
- b) To reach an upscale, educated, affluent audience
- c) For increased name awareness
- d) To be associated with high quality programming
- e) To support Public Radio
- f) To appear to have a professional, competitive edge
- g) All of the Above

Although it would appear that "g" would be the appropriate answer, the real underlying reason a company would support your station would be to ultimately sell more goods or services at a profit.

This may seem to be a bit harsh in the world of Public Radio, however, in the 90's companies are looking for every competitive edge. The term "value added" is the catch phrase of this decade. You can become the "value added" for your corporate client. The fact that they get all of the above benefits is a bonus.

Companies are scrutinizing every line item for ways to economize and/or maximize each investment. You are fortunate that you can fall into two very specific areas of concern for potential corporate supporters:

PROSPECTING: The Lifblood of Corporate Support

- 1) You can be an essential part of a company's marketing/public relations program; and
- 2) You can be an important aspect of a company's charitable/community giving program.

If you were a commercial radio or television station, you could deliver an advertising message to a specific audience, however, you are limited by the fact that people realize that the announcement is in fact an "ad" and, therefore, does not carry the same appearance of impartiality as an underwriting statement. Also, advertising budgets have been drastically reduced both locally and nationally for the past five years.

If you were an arts, social service or an educational organization, you would be restricted by the amount of publicity or public relations that you could offer a corporate contributor by virtue of press releases, program booklets, or signage at an event, however, you are at the mercy of the media carrying the event. Though it may be an advantage for a corporate supporter to be associated with the Boy Scouts, the United Way, Veterans Administration or a local private school, the overall audience or awareness of the company's contribution could be considered somewhat confined. These giving budgets have also been reduced.

As a representative of a public radio station you can offer both the media coverage by way of underwriting announcements and the association with a non-profit/community organization.

KNOW YOUR AUDIENCE

When prospecting, the easiest potential client to see is one whose customer base or "audience" aligns with your own.

A company who would court a customer who is of a similar demographic as yours would benefit the most from underwriting. Know your audience:

- age;
- income;
- interests;

GENERAL COUNSEL
OF COPYRIGHT

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

APR 20 1998

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
WASHINGTON, D.C.

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

RECEIVED

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
JAKARTA
SINGAPORE
TOKYO

EUROPE
BRUSSELS
BUDAPEST
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

DIRECT DIAL: 819-8424

MIDDLE EAST
JEDDAH
RIYADH

AFRICA
JOHANNESBURG

LATIN AMERICA
MEXICO CITY
SAO PAULO

FACSIMILE TRANSMISSION

Date: April 20, 1998

No. of Pages (including cover):

To: Gina Ciuffreda
CARP Specialist
U.S. Copyright Office

Fax Number:
Contact Number:

202-707-8366
202-707-2699

From: Sam Mosenkis

PLEASE NOTE: The information contained in this facsimile message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender at call (212) 819-7583. Thank you.

Gina,

Please find attached a letter from White & Case, on behalf of ASCAP, in reply to the Public Broadcasters' letter of April 9, 1998. The original and the appropriate number of copies will be mailed to you.

Sam Mosenkis